

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
(BOSTON)**

Nancy Brooks and Joan Silverman, as
Trustees of the Irrevocable Trust of Donald L.
Silverman and as Executrices for the Estate of
Donald L. Silverman

Plaintiffs,

v.

AIG SunAmerica Life Assurance Company,

Defendant.

Civil Action No. 05-10994-WGY

**PLAINTIFFS' CROSS-MOTION FOR
PARTIAL SUMMARY JUDGMENT (Liability)**

Plaintiffs Nancy Brooks and Joan Silverman, on behalf of themselves and all other similarly situated persons, hereby cross-move for partial summary judgment in their favor on the grounds that SunAmerica both breached its insurance contract and violated the regulations of the Massachusetts Division of Insurance ("MA DOI Regulations") in raising cost of insurance ("COI") rates on Donald L. Silverman's policy ("Silverman Policy") and all similar policies (collectively the "Policies").

For the reasons set forth in Plaintiffs' Supporting Memorandum, the Court should **grant** Plaintiffs' Cross-Motion for Summary Judgment (Liability) and hold that Defendant breached the Silverman Policy (a) each year by making unauthorized COI rate increases in violation of the Actuarial Memorandum and/or (b) in 1999-2000 and 2000-01 by making unauthorized COI rate increases in violation of the Plan of Rehabilitation filed with MA DOI.

Respectfully submitted,

DATED: 9 February 2006

/s/
John Peter Zavez (#555721)

Noah Rosmarin (#630632)
ADKINS KELSTON & ZAVEZ, P.C.
90 Canal Street
Boston, MA 02114
Tel: (617) 367-1040
Fax: (617) 742-8280

LOCAL RULE 7.1 CERTIFICATION

I certify that I conferred with defense counsel on 26 January 2006 but could not obtain opposing counsel's agreement to the specific relief sought by this motion.

Dated: 9 February 2006

_____/s/_____
John Peter Zavez

CERTIFICATE OF SERVICE

I certify that on 9 February 2006, I caused a true copy of the foregoing document to be served electronically via the Court's electronic filing system on defense counsel.

_____/s/_____
John Peter Zavez